Theme 1: Indigenous Peoples' relationship with the environment

Presented by Malih Ole Kaunga at Economic and Social Council (ECOSOC) Expert Group Meeting on "Indigenous Peoples in a Greening Economy", January 2024, Boulder, Colorado, USA

What international standards and recommendations could be applied to the right of Indigenous Peoples to development in accordance with their own needs and interests. e.g. United Nations Declaration on the Rights of Indigenous Peoples, Human Rights Council, UN Permanent Forum on Indigenous Issues, ILO, Kunming-Montreal Global Biodiversity Framework, and others).

Tension persists between indigenous communities and States regarding absolute ownership of resources such as land, seascapes and biological resources creating a complex interplay between State's obligations to international legislative frameworks, standards and national interests exhibited through the assertion of national sovereignty. This has continually threatened the real independence and self-determination of indigenous communities across the globe in the face of compulsory land acquisition, economic disruptions driven by the expansion of global markets against as the protection of traditional owners' right to inherent resources.

The Nagoya Protocol provides concrete structures and a framework that define the benefits indigenous communities should access from genetic resources that are drawn from their land and resources. [1] However, the back stops with the sovereign states that employ the autonomy to decide whether to allow exploitation of biological resources without the consent of indigenous or traditional holders.[2] Therefore, it is imperative that States are persuaded to legislate and enforce international standards on the protection of genetic resources, traditional knowledge and cultural heritage therefore acknowledging the social and cultural values intertwined with these resources to realize the protection of indigenous communities.

On the other hand, the Free, Prior and Informed Consent (FPIC) framework is rooted on recognition of indigenous peoples' to their ancestral lands and resources therein. In the current context of development, major obstacles exist to full and meaningful FPIC in practice as national contexts are varied yet critical. Even where FPIC is part of a policy or law, there is no guarantee that entities engaging with indigenous peoples' and their land will effectively and meaningfully employ FPIC principles.[3] Meaningful implementation of FPIC and effective indigenous-led negotiations across all States is imperative to the survival of indigenous peoples' and should not only be codified but also enforced. Negotiation is a leadership capacity that indigenous peoples should employ, in order to make sure the principles of the UN Declaration on the Rights of Indigenous Peoples are implemented. Similarly, negotiations are an avenue for recognizing and exercising indigenous rights potentially mitigating harmful impacts and maximize benefits of projects implemented on their ancestral lands.

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[1] Zurba M and Papadopoulos A. (2021) 'Indigenous participation and the incorporation of Indigenous Knowledge
[2] Ibid.
[3] Mcekhinny V *et al.* (2021) *Indigenous Negotiations Resource Guide* [Preprint]. doi:https://www.conservation.org/docs/default-source/publication-pdfs/ci-indigenous-negotiations-resource-guide.pdf.

Further, enforcement of FPIC principles will protect property rights of indigenous peoples' at the current risk of arbitrary eminent domain. The doctrine of eminent domain allows the State to acquire privately owned or community land for public use enforced through compulsory acquisition. Historically and in the current context, privatization and state control of indigenous peoples' lands without due compensation has become increasingly a norm resulting in forced evictions of many indigenous communities. Large infrastructural projects such as construction of roads, railways and dams, mining, oil exploration, solar power farms, hydropower and geothermal projects have seen the conversion of indigenous peoples' land to private or public use without FPIC and adequate compensation. The implementation of FPIC shall significantly reaffirm the rights of indigenous peoples to their lands and natural resources. Fundamentally, the concept of just, adequate and prompt compensation should be defined to include free prior and informed consent to compulsory acquisition, meaningful consultation and engagement to determine the valuation of their land which includes non-monetary values and livelihood as well as prompt compensation without delay.

Article 32 of ILO 169 is attributed to the fact of the same indigenous communities are arbitrarily slotted into different countries by administrative boundaries.[4] There is therefore a need to implement this provision recognizing existing migration dynamics of indigenous communities, facilitating trans-boundary migratory co-ordination consequently opening up trade and market opportunities.

Summarily, it is apparent that international legal instruments, frameworks and standards affirm indigenous rights among them the right to self-determination. However, indigenous peoples are still living under tenets of colonial laws and ontologies such that their right to self-recognition and determination is a far reaching dream owing to national legal contexts. It is therefore vitally important that a linkage is drawn with effectual implementation of indigenous rights as recognized by these international mechanisms.

How do the goals and needs of Indigenous Peoples differ from the needs and goals of other interested parties in the relationship with nature in the context of global climate change?

In many parts of the world ecological distribution conflicts are a result of projects; infrastructural or alike driven by private enterprises, national or international agencies, development agencies or foreign governments.[5] (Aoki Inoue et al., 2023)

The global goal to greening economy and just transition aligned with reduction of carbon emissions is inadvertently increasing pressure on the natural environment and indigenous peoples' livelihood. A majority of constituent resources in the green energy transition are situated in the indigenous peoples' lands. The question of land tenure and security comes into play and because governments are determined to extract resources at all costs, the process of land acquisition is rushed at the expense of host communities. Consequently, indigenous communities are displaced and others are constructively

[4] IGAD (2012) *Regional Migration Policy Framework*.
[5] Aoki Inoue CY and others (2023) 'Indigenous and Traditional Communities' Ways of Knowing and Being in Planetary Justice' *Environmental Politics*

displaced, through economic displacement whereby their livelihoods are interfered with and are hence forced to move.[6]

On the other hand, conservation efforts are mostly in conflict with indigenous peoples' interests with these communities bearing the burden of conservation. This is evident in the continued expansion of game reserves, conservancies attributed to tourism efforts. Broadly speaking, African indigenous communities have been cast as enemies to conservation, criminalized and referred to as poachers while their livelihood and indigenous knowledge systems have been undermined; and it is widely believed that they have to be taught how to conserve. Research shows that between 1.65 and 1.87 billion indigenous peoples' live in the world's important biodiversity conservation areas.[7] Globally, the overlap between protected areas and the lands of indigenous peoples' is estimated at 50–80 %. It has also been estimated that up to 136 million people were displaced in formally protecting half of the area currently protected (8.5 million km2). In addition to this, global conservation efforts under the banner of the High Ambition Coalition for Nature and People the 30 by 30 proposal is now encapsulated in target 3 of the Kunming-Montreal Global Biodiversity Framework whose aim is to "***ensure that by 2030 at least 30 per cent of areas of degraded terrestrial, inland water, and coastal and marine ecosystems are under effective restoration, in order to enhance biodiversity and ecosystem functions and services, ecological integrity and connectivity***.'' The current network of protected areas is estimated to cover 17% of the continents land mass. The bulk of this land would be fall under national parks, game reserves, and forest reserves. The 30 by 30 proposal is of interest to indigenous communities in the current context because many of the protected areas on have been established by eviction of communities from their territories and are associated with an array of human rights abuses. This depicts the apparent conflict of global and national goals that inadvertently harms indigenous communities.

Indigenous peoples entirely depend on natural resources, their lands and seascapes for their livelihood. Owing to a myriad of intersecting challenges, an apparent competition between them and public or private entities emanate threatening their survival. In the context of a changing ecology and climatic effects, adaptation for these communities is a priority for survival. However, faced with competition by investors whose objective is to exploit resources for green transition, carbon sequestration posing complex intersecting challenges for these vulnerable communities. In light of the above, transformative contextualized actions geared towards full realization of indigenous peoples' goals in response to climate change alongside national interests and within the purview of natural resources management requires collaborative efforts from institutions, programmes and processes that are inclusive and participatory.

How does traditional knowledge and the practices of Indigenous Peoples contribute to the protection of the environment?

[6] UN Permanent Forum on Indigenous Issues (2022) "The Rights of Indigenous Peoples in relation to the global energy mix" (New York).

[7] *New RRI study shows rights-based conservation as viable path to achieving global biodiversity agenda - rights + resources - supporting forest tenure, policy, and market reforms* (2022) *Rights + Resources - Supporting Forest Tenure, Policy, and Market Reforms - Supporting Forest Tenure, Policy, and Market Reforms*. Available at: https://rightsandresources.org/blog/new-study-shows-rights-based-conservation-as-viable-path-to-achieve-global-biodiversity (Accessed: 11 January 2024).

Indigenous adaptations frequently involve long term adjustments to specific environments and therefore indigenous peoples' are integral environmental managers and conservationists central to providing additional dimensions to scientific modes of human-environment interactions.[8] Indigenous knowledge strategies are found in pastoral survival approaches, soil and water conservation, farming systems, agroforestry, forest and wildlife conservation, meteorology, in land tenure delineation arrangements, and in indigenous institutional mechanisms for regulating access and use of natural resources.[9] The following are specific examples of indigenous knowledge contributing to environmental conservation:

a) **Nomadic pastoralism** – Territorial mobility of pastoralists characterized by systemic migratory patterns has not only been informed by sound environmental phenomena but also a adaptive survival of pastoralists to rangelands. The behavior of livestock enables pastoralists to interpret oncoming rains or drought. This prediction thus informs their preparedness and actions to ensure their adaptation and survival. Pastoralists plan their movement holistically to allow land to rejuvenate, dry and rainy seasonal grazing patterns. Pastoralists have also been known to use emergency fodder, culling of weak livestock as an adaptation mechanism for adverse climatic changes.
b) **Flowering of certain species of tree** – During drought, pastoralists are keen in observing specific tree species for the start of flowering. Flowering indicates that the rains are about to come to shed away the flowers hence they start preparing on how to take care of their sources of livelihoods when the rains fall. They have specific species to be observed both in the low and highlands. They also observe changing temperatures at different times of the day.
c) **Co-existence with wildlife** – During migration, pastoralists graze their livestock in the rangeland coexisting with wildlife. Wildlife also follow patterns in which pasture and water is available. For decades, they graze adjacent to each other in the wild. During drought, when wildlife (elephants) moves back to the degraded areas in large numbers and camp for some days, pastoralist knows that rains are not far from falling and they stop moving further away and hang around observing the direction of the wind and clouds. They will be able to mark areas that the first rains fall. It is believed that such rains fall where the elephants have migrated to and they start following up. They know that pasture is beneficial to livestock when grazed together with wildlife.
d) **Observing stars and movement of the sun** – Elders observe morning and evening movement of stars or when stars interlock, they can tell if rains are there or drought is on coming. They can also tell if there are disasters like livestock diseases and advise community on measures to be taken for their survival. Observing the rising position of the sun in relation to the mountains, rivers etc they could predict weather situation for the coming months and they start planning their rangelands.
e) **Movement of bees' migration** – While grazing in the rangeland, pastoralists observe the migration direction of bees and they will be able to tell if rains are about to start and in which geographical area, for instance is it in low land or forest highland. There is a direction that if bees migrate to, they know that a terrible drought will come and they start preparing for migration.

[8] Ochwo-Oburu S. (2020) 'East Africa and indigenous knowledge: Its nature, contents, aims, contemporary structures, and vitality', *The Palgrave Handbook of African Education and Indigenous Knowledge*, pp. 303–318. doi:10.1007/978-3-030-38277-3_15.
[9] Ibid.

f) **Movement and behavior of birds** – Indigenous communities have been known to listen and observe the movement and sounds of specific birds to predict either the rains, drought or some disaster of some nature. Some birds move in flocks, make patterns as they fly and settle where livestock graze. This communicates to them that things are normal and there is no threat to their environment and livestock. Elders believe that behavior of birds' prediction is more accurate than any other interpretation. The movement of butterflies in big numbers towards the east indicate that rains are likely to fall soon.

What struggles do Indigenous women face when their role and relationship with the environment is broken?

It is apparent that the physical space across all landscapes is a shared resource that overlap in uses for both men and women. However, by virtue of the exploitation of resources in these spaces then there exist nuanced distinct gender elements and evident gender-based knowledge and experience.

In focusing on gender as an asset with respect to entitlements and traditional knowledge, indigenous women's knowledge of the environment as well as material assets such as biodiversity; both the access and use are part and parcel of gendered assets of women.[10] The relationship between women and the environment can be divided in two forms of valuation; direct value and indirect value. Direct value refers to the actual use of elements as food, medicinal or religious purposes; a source of livelihood while indirect value refers to the nuanced cultural and social value of aspects of the environment; land and its biodiversity. In the same breath, ecological change and environmental disruptions threaten these forms of valuation.

Locating gender within the indigenous peoples' landscape against changing contexts of ecological change, economic disruptions, climate change while underscoring the contingent nature and fluidity of gender interests; it is apparent that environmental conservation is faced with a myriad of intersecting empirical challenges. Economic reform programmes that favour domestic and global market expansion rather than a social welfare agenda, policy responses to climate change, are reconfiguring patterns of natural resource use and environmental governance at both a national and local level consequently having complex effects on indigenous women's lives.

In many contexts, women are more vulnerable to ecological and adverse environmental changes. Nutritional stress and food insecurity are among the challenges borne by indigenous women as a result of an exacerbated vulnerability owing to environmental disruptions. This is particularly evidenced through loss of biodiversity or limited access to natural resources adversely impacting their source of food. Loss of biodiversity has also impacted access to traditional medicines for women that consequently affect their health and livelihood.

Additionally, women have often borne the burden of domestic work and therefore environmental disruptions that impact water sources often result in hauling water from distant sources. Exposure to

[10] Elmhirst R, Hardwick T and Resurreccion BP (2008), *Gender and Natural Resource Management: Livelihoods, Mobility and Interventions* (Earthscan Publications).

skin diseases and miscarriages as a result of environmental pollution are a direct consequence of changing environmental impacts.

Social costs are also among the price women have borne as a result of a broken environmental relationship. In the event of displacement, women are more vulnerable to health-related complications and carry the burden of re-establishing a home, securing food and water for the family. Prevalence of diseases more often aggravate women's care-giving of family.

In most cases, gender-based violence also increases as a result of external environmental pressures such as displacement with the women bearing the violence further aggravating their vulnerability.

What is the role of Indigenous youth in protecting the understandings, skills and philosophies developed by their Indigenous societies

Albeit with reluctance, the global shift towards recognition and inclusion of indigenous voices in pertinent environmental governance discourse is significant as this remarkably creates an avenue for indigenous youth to move the needle forward. Attributed to creation of awareness, advocacy efforts, there is an increased acknowledgement of indigenous participation in environmental governance as articulated at the international level through the UN Declaration on the Rights of Indigenous Peoples (UNDRIP), as well as at the regional and national levels through inherent and rights recognition in different parts of the world[11]. Therefore, as engagement of indigenous peoples' increase, dawns an opportune time to pass the baton over to the indigenous youth. By virtue of their cultural identity, indigenous youth inherit the responsibility to protect and preserve their natural landscapes, their cultural heritage and indigenous knowledge. Possessing the power to make dynamic shifts, indigenous youth are the future leaders of today's communities, a fundamental catalyst for change as well as preservation of their cultures. As the future custodians of the earth and their natural environments, indigenous youth have the capacity to amalgamate contemporary skills, modern science with indigenous knowledge fostering sustainable solutions to existing challenges posed on the environment.

Drawing lessons from perceived transformative actions and history, indigenous youth bear a duty to ameliorate environmental degradation and contribute to sustainable development. Coupled with recognizing loss of natural and genetic resources, land and livelihoods of indigenous peoples' owing to disruptive social, economic, ecological and political environmental changes, it is imperative that indigenous youth understand the exploitation of indigenous peoples' over the years, colonial theft of their peoples' resources and their traditional knowledge. Therefore, it is the youths' obligation to highlight these material injustices while illuminating the intrinsic nature of these resources to their social and cultural fabric.

[11] Zurba M and Papadopoulos A. (2021) 'Indigenous participation and the incorporation of Indigenous Knowledge and perspectives in Global Environmental Governance Forums: A systematic review', *Environmental Management*, 72(1), pp. 84–99. doi:10.1007/s00267-021-01566-8.

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